

AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 710

Introduced by Senator La Malfa

February 18, 2011

An act to add Part 7.5 (commencing with Section 12965) to Division 6 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 710, as amended, La Malfa. ~~State Water Project.~~ Project: *county services.*

Under existing law, the Department of Water Resources operates the State Water Project and exercises other functions relating to the state's water resources. ~~Existing law authorizes the department to enter into contracts and agreements in connection with the State Water Project.~~ *Under existing law, the State Water Project is comprised of, among other facilities, specified dams and reservoirs.*

Existing law, the Byrne Act, authorizes the Governor to designate, and authorizes specified local government agencies to request designation as, impact areas for purposes of receiving state financial assistance for certain local governmental services and facilities associated with the construction of state water resources projects.

This bill would authorize a county, in accordance with prescribed procedures, to prepare and adopt a county services impact report containing, among other things, a description of the costs of county services, as defined, related to the operation of specified dams and reservoirs as State Water Project facilities within the county. The bill would require the department to compensate the county for those costs by compensating the county directly, by providing the county with

specified services and facilities, or by contracting with the county or a service provider to provide the services or facilities within the county.

~~This bill would state the intent of the Legislature to enact legislation that would address costs to local governments caused by State Water Project operators.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 7.5 (commencing with Section 12965) is
2 added to Division 6 of the Water Code, to read:

3
4 PART 7.5. COMPENSATION FOR COSTS OF COUNTY
5 SERVICES
6

7 12965. As used in this part, the following terms shall have the
8 following meanings:

9 (a) “Baseline services cost” means the cost of county services
10 that were, or would have been, provided within the boundaries of
11 a dam and reservoir, or were or would have been caused by the
12 presence of the dam and reservoir, in the absence of the operation
13 of the dam and reservoir as a State Water Project facility.

14 (b) “County services” means law enforcement and related
15 criminal justice and incarceration services, fire protection, public
16 health and social services, environmental health, road maintenance
17 and replacement, and any other services provided by the county
18 that are related to the operation of a dam and reservoir that is a
19 State Water Project facility.

20 (c) “County services impact report” means a report prepared
21 by a county pursuant to Section 12966.

22 (d) “Dam and reservoir” means, and is limited to, a dam, a
23 reservoir, or a dam and reservoir identified for operation, and
24 actually used for operation, as a State Water Project facility.

25 (e) “Dam and reservoir boundary” means the boundary of the
26 dam, reservoir, or dam and reservoir that encloses all works,
27 improvements, and other features located within the county that
28 are necessary for the operation of the dam and reservoir as a State
29 Water Project facility.

1 (f) “State Water Project facility” means a facility described in
2 subdivision (d) of Section 12934.

3 12965.5. It is the intent of the Legislature that a county may
4 use the procedures pursuant to this part to obtain compensation
5 for local governmental services associated with costs of State
6 Water Project facilities, in lieu of, or in addition to, the provisions
7 of Part 7 (commencing with Section 12950).

8 12966. (a) The board of supervisors of a county may provide
9 for the preparation of a county services impact report for purposes
10 of this part upon a determination by the board of supervisors that
11 a dam and reservoir within the county has not been subject to a
12 county services impact report prepared within the previous 10
13 calendar years.

14 (b) A county seeking compensation pursuant to this part shall
15 prepare at least one county services impact report every 10 years.

16 (c) A county may prepare a county services impact report, may
17 contract for the preparation of a county services impact report,
18 or may prepare a county services impact report in cooperation
19 with other public agencies.

20 12966.5. A county services impact report shall include all of
21 the following:

22 (a) A description of the population of the county, socioeconomic
23 conditions of the county, and types, scope, and costs of county
24 services that existed prior to the construction of the dam and
25 reservoir.

26 (b) A description of the current and projected population of the
27 county, current and projected socioeconomic conditions of the
28 county, and current and projected types, scope, and costs of county
29 services related to the dam and reservoir, for which the county
30 seeks compensation pursuant to this part.

31 (c) A calculation of the baseline services cost, and a description
32 of how the baseline services cost was calculated.

33 (d) (1) A calculation of the sum of the increased costs of county
34 services, over the baseline services cost, for which the county seeks
35 compensation pursuant to this part, including a description of the
36 types and scope of the county services for which the compensation
37 is sought.

38 (2) The sum calculated pursuant to paragraph (1) shall deduct
39 an offset in an amount equal to the amount of any real property
40 taxes, or any payments in lieu of real property taxes, by the

1 department on lands, works, or features within a dam and reservoir
2 boundary that are in excess of the baseline services cost incurred
3 by the county in relation to the dam and reservoir.

4 (3) The sum calculated pursuant to paragraph (1) shall deduct
5 an offset in an amount equal to the amount of any compensation
6 that the department has provided to the county as mitigation for
7 a project within a dam and reservoir boundary pursuant to the
8 California Environmental Quality Act (Division 13 (commencing
9 with Section 21000) of the Public Resources Code) to the extent
10 that the compensation is for an increased cost identified in
11 paragraph (1).

12 12966.7. (a) In preparing a county services impact report, the
13 county shall consult with, and request comments from, the
14 department. The county shall include responses to any comments
15 from the department in the final report.

16 (b) Before preparing a county services report, and during the
17 preparation of the report, the county shall encourage active
18 involvement of any public agency or any person with special
19 expertise regarding the contents of the county services impact
20 report.

21 (c) Before it adopts a county services impact report, the board
22 of supervisors of the county shall make a draft report available
23 for public inspection and shall hold a public hearing on the report.
24 Prior to the public hearing, notice of the time and place of the
25 hearing shall be provided to the department and shall be published
26 within the county pursuant to Section 6066 of the Government
27 Code.

28 (d) After a public hearing pursuant to subdivision (c), the board
29 of supervisors of the county may adopt a final county services
30 impact report, including any modifications to the draft report that
31 are recommended after the public hearing.

32 (e) The county shall submit a copy of the final county services
33 impact report to the department.

34 12966.9. (a) Any action or proceeding to attack, review, set
35 aside, void, or annul the acts or decisions of a county on grounds
36 of noncompliance with this part shall be commenced within 90
37 days after the county submits the county services report to the
38 department pursuant to subdivision (e) of Section 12966.7.

39 (b) In any action or proceeding to attack, review, set aside,
40 void, or annul a county services impact report, or any action taken

1 *pursuant to the report by the county, on grounds of noncompliance*
2 *with this part, the inquiry shall extend only to whether there was*
3 *a prejudicial abuse of discretion. Abuse of discretion is established*
4 *if the county has not proceeded in a manner required by law or if*
5 *the action by the county is not supported by substantial evidence.*

6 *12967. (a) The department shall reimburse the county for the*
7 *county's reasonable costs of preparing a county services report*
8 *pursuant to this part.*

9 *(b) After receipt of a final county services impact report*
10 *pursuant to subdivision (e) of Section 12966.7, the department*
11 *shall fully compensate the county for the increase in the cost of*
12 *providing county services over the baseline services cost due to*
13 *the presence or operation of a dam and reservoir as a State Water*
14 *Project facility within the county, as calculated pursuant to*
15 *subdivision (d) of Section 12966.5.*

16 *(c) The department may compensate the county for the increased*
17 *county services costs using any one, or a combination of, the*
18 *following methods:*

19 *(1) By providing direct financial assistance to the county*
20 *pursuant to any existing authority of the department.*

21 *(2) By providing the county with equivalent services or facilities*
22 *of the department, in lieu of the county's services.*

23 *(3) By contracting with the county, or with a service provider*
24 *that has all necessary certifications, licenses, and permits, to*
25 *provide equivalent services in lieu of the county's services.*

26 *(d) Any lump sum payment made to a county by the department*
27 *for purposes of this part shall be prorated over the period covered*
28 *by the lump sum payment, based upon the increased cost of county*
29 *services described in the final county services impact report.*

30 *(e) Any compensation provided pursuant to this part shall be*
31 *in reasonable proportion to the increased cost of county services*
32 *calculated pursuant to subdivision (d) of Section 12966.5.*

33 *(f) The department shall provide compensation required*
34 *pursuant to this part using existing resources or funds that are*
35 *available for the operation of the dam and reservoir, and which*
36 *the department has the authority to expend for purposes of this*
37 *part.*

38 *12969. The provisions of this part are severable. If any*
39 *provision of this part or its application is held invalid, that*

- 1 *invalidity shall not affect other provisions or applications that can*
- 2 *be given effect without the invalid provision or application.*
- 3 ~~SECTION 1. It is the intent of the Legislature to enact~~
- 4 ~~legislation that would address costs to local governments caused~~
- 5 ~~by State Water Project operators.~~